The evidence showed that shortly before midnight on Friday, September 14, 1962, petitioner purchased a drink at a tavern in Union City, New Jersey, with a twenty dollar bill, for which he received change (R. 41a).[1] Pursuant to standing orders concerning the handling of bills of large denominations, the bartender placed the twenty dollar bill on top of the cash register drawer to be checked by the tavern owner (R. 43a). Five minutes later the owner, Santasieri, arrived, and observed petitioner, whom he knew, leaving his establishment and proceeding in the direction of another tavern (R. 56a-57a). The bartender gave Santasieri the bill, which was the only one to be examined (R. 53a, 55a). Using a magnifying glass and flashlight, Santasieri inspected the bill (Gov't Exh. 1), and became suspicious of its authenticity. He hurried outside to a patrol car parked in front of his tavern, and informed the policeman of the passage of a counterfeit twenty dollar bill in his tavern. Two detectives accompanied Santasieri and the policeman to another tavern, where they arrested petitioner (R. 58a-60a, 77a). Petitioner was taken to the police station, where, after being advised of his rights, he denied passing the note. He stated that he had arrived in Union City by bus, and had stopped at Santasieri's tavern to have one drink, which he paid for with a five dollar bill. Petitioner was told to place his effects upon a counter. Among his possessions was another counterfeit bill which bore the

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[1] "R" references are to the "Appendix to Appellant's Brief," containing the indictment and the transcript of trial, which has been filed with the Clerk of this Court.

same serial number as the one negotiated in Santasieri's tavern (Gov't Exh. 2, R. 80a, 142a). In addition, petitioner had keys to an automobile which he said belonged to his brother-in-law (R. 84a).

During the next two days Union City police discovered that a car parked illegally near Santasieri's tavern was owned by petitioner. On Monday, September 17, Detective Cerulli obtained a search warrant (App., *infra*, pp. 5-7) and, together with a federal Secret Service agent, conducted a search of the car (R. 100a-104a, 130a-131a). On the front seat the officers found a payroll envelope containing twelve more counterfeit twenty dollar bills, ten of which bore the same serial number as Government Exhibits 1 and 2 (R. 143a).

Petitioner's sole contention is that the search of his automobile, which resulted in the discovery of the counterfeit bills that were the subject matter of count 3, was unlawful. The contention is plainly without merit.[2] In addition, since petitioner's convic-

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[2] The search warrant was properly issued by a State magistrate. It was based upon an affidavit by Detective Cerulli that he was assigned to investigate petitioner's case and was aware of two incidents of possession of counterfeit notes; that although petitioner told Cerulli that he had come to Union City by bus, petitioner's car was found illegally parked in the town; and that on these facts he believed that there were bogus bills in the car. The magistrate found probable cause to believe that petitioner had violated a State law prohibiting the possession of any counterfeit "medium of exchange". N.J. S.A. 2A:109-2 (R. 18a-19a). Thus here, unlike *Baysden* v. *United States*, 271 F.2d 325 (C.A. 4), relied upon by petitioner, the agent in obtaining the warrant disclosed the information he possessed, much of it obtained through personal observation and inter-

tion on counts 1 and 2 was not based on the evidence discovered in the search of the automobile, and he received equal concurrent sentences on all counts, there is no occasion for this Court to determine the legality of that search. *Sinclair* v. *United States*, 279 U.S. 263, 299; *Lawn* v. *United States*, 355 U.S. 339, 359.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the petition for a writ of certiorari should be denied.

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Attorneys.

MAY 1966.

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view with the petitioner and the report of another policeman. See *United States* v. *Ventresca*, 380 U.S. 102; *Porter* v. *United States*, 335 F.2d 602 (C.A. 9), certiorari denied, 379 U.S. 983; *United States* v. *Bowling*, 351 F.2d 236 (C.A. 6), certiorari denied, 383 U.S. 908.

APPENDIX

AFFIDAVIT.

September 17th, 1962

COUNTY OF HUDSON
STATE OF NEW JERSEY

vs.

ROBERT JOYCE, DEFENDANT

Albert Cerulli, being of full age and duly sworn according to law, upon his oath deposes and says:

I am a detective of the Union City Police and am assigned to investigate the passing of counterfeit bills by Robert Joyce age 26 of 503 Valley Road, West Orange, N. J. who was arrested at 12:20AM Sept. 15th, 1962 at the Transfer Station. The defendant was identified as passing a bogus $20- bill in a tavern and upon being searched at Police Headquarters another bogus $20- bill was found on his person.

When taking a statement from Robert Joyce he told me that he arrived in Union City on a bus and that he did not come in an auto. On the morning of September 17th, Officer Louis Kominek on duty checking parking meters reported a car in violation at 805 Summit Ave. A teletype revealed that it belonged to Robert Joyce who was in the City Jail.

Based on the facts of the defendant telling a lie about his car and his evasiveness in answering questions and the identification as he being the one to pass a bogus bill and the finding of another bogus bill on his person I believe the defendant has bogus bills in his car Reg. GJI 624 NJ a 1949 Chev. which has been towed to Corsis Garage at 2205 Summit Ave. I request a warrant be issued to search said vehicle for

bogus bills or other evidence pertaining to counterfeit money.

ALBERT CERULLI
Detective Albert Cerulli

Subscribed and sworn to before me this 17 day of Sept. 1962.

FRANK G. HAHN,
Judge Union City Municipal Court.

SEARCH WARRANT.

MUNICIPAL COURT OF THE CITY OF UNION CITY, COUNTY OF HUDSON, STATE OF NEW JERSEY.

STATE OF NEW JERSEY

vs.

ROBERT JOYCE, DEFENDANT

Search Warrant General

To the Sheriff, or any Constable, Marshal, or Police Officer of said County, or to any Officer or Trooper of the New Jersey State Police:

WHEREAS, a verified complaint having been this day made before this court by Det. Albert Cerulli of the Police Dept. of Union City, County of Hudson, State of New Jersey, and there is probable cause for believing the allegations of said complaint that: Bogus bills are secreted in the automobile of the defendant, a 1949 Chevrolet Reg. #G.J.I.-624 N. J. and that he has reasonable cause to suspect, and does sus-

pect that said goods and chattels are concealed in above named auto.

YOU ARE THEREFORE COMMANDED, in the name of the State of New Jersey, to make immediate search of the person of the defendant and, in the daytime, of the auto above situated and described, for the said Bogus Bills; and if you find the same, or any part thereof, that you secure the same and bring it or them forthwith before this court with the body of the defendant, to be dealt with according to law.

Signed and sealed this 17 day of Sept. 1962.

FRANK G. HAHN
Judge of the Municipal Court of the City of Union City, County of Hudson, N. J.

(SEAL)

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